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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JEFFRIE MCKINZIE,

Plaintiff

v.

KENNETH KYLER, ET AL.,

Defendants

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: CIVIL NO. 1:CV-00-2159
:
: (Judge Caldwell)
:
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FILED
HARRISBURG, PA

MAY 09 2001

MARY E. D'AMICO, CLERK
PER [Signature] DEPUTY CLERK

M E M O R A N D U M

I. Introduction.

The pro se plaintiff, Jeffrie McKinzie, an inmate at SCI-Waynesburg, Pennsylvania, has filed a timely motion to alter or amend our order of January 17, 2001, styled as a motion for reconsideration. That order dismissed his civil rights action under 42 U.S.C. § 1997e(a) for failure to exhaust available administrative remedies.

II. Discussion.

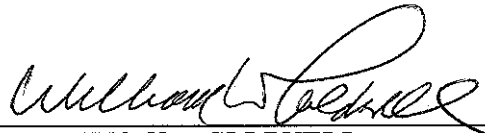
McKinzie made a claim under the Eighth Amendment for inadequate medical care for an inguinal hernia while he was confined at SCI-Huntingdon. He sued Huntingdon officials and employees, alleging that they had refused to repair the hernia surgically despite his complaints of severe pain. The hernia was operated on after his transfer to Waynesburg.

The motion for reconsideration argues that we should allow this case to proceed because the Plaintiff made a good faith

attempt to exhaust administrative remedies while he was incarcerated at Huntingdon and that they are no longer available to him now that he has been transferred to Waynesburg.

We disagree. As we read the exhibits attached to the Plaintiff's reconsideration motion, he failed to complete the administrative-remedy process when he did not file an appeal to the Chief Hearing Examiner from the Superintendent's denial of March 29, 2000. (See exhibit 1h). The Plaintiff was not transferred to Waynesburg until July 12, 2000.

We will issue an appropriate order.


WILLIAM W. CALDWELL
United States District Judge

Date: May 9, 2001

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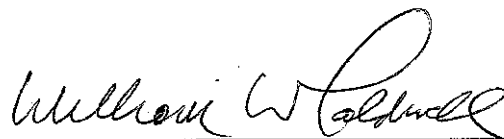
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O R D E R

MARY E. D'ANDREA, CLERK
PER gts DEPUTY CLERK

AND NOW, this 9th day of May, 2001, it is ordered that the Plaintiff's motion (doc. 11) to alter or amend our order of January 17, 2001, styled as a motion for reconsideration is denied.



WILLIAM W. CALDWELL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

May 9, 2001

Re: 1:00-cv-02159 McKinzie v. Kyler

True and correct copies of the attached were mailed by the clerk
to the following:

Jeffrie McKinzie
1020 Morelle Avenue
East McKeesport, PA 15035

cc:		
Judge	()	() Pro Se Law Clerk
Magistrate Judge	()	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()
Bankruptcy Court	()	
Other _____	()	

MARY E. D'ANDREA, Clerk

DATE: 5-9-01

BY: 
Deputy Clerk